IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 34293 of 2004(G)

AGAINST THE ORDER DATED 27/02/04 IN IA.334 OF 2002 IN OS.48/2002 of SUB COURT, PALA

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PETITIONER:

M.GOPALAKRISHNAN NAIR, S/O.K.N. HARIHARAN NAIR, MECHERIL HOUSE, MELAMPARA KARA, THALAPPALAM VILLAGE, MEENACHIL TALUK.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENT:

MEENACHIL TALUK N.S.S. KARAYOGAM UNION, NO.957, PALA, REP. BY ITS SECRETARY, P.G.RAJAGOPAL, N.S.SBUILDING, CHETHIMATTOM.

BY ADV. SRI.T.R.HARIKUMAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.34293/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF PLAINT DT.3.10.01 BY RESPONDENT.

EXT.P2 – TRUE COPY OF AFFIDAVIT AND PETITION BY RESPONDENT DT.11.12.01.

EXT.P3 – TRUE COPY OF OBJECTION FILED BY PETR. DT.14.12.01

EXT.P4 – TRUE COPY OF ORDER DT.27.2.04 IN I.A.334/02 IN O.S.48/02 OF SUB COURT, PALA.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.34293 OF 2004

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DATED THIS THE 20TH JUNE, 2007

J U D G M E N T

Even though I do find some force in the submission of Mr.Mathew John K., counsel for the petitioner that the impugned order is directly against the principles of law laid down by the Full Bench of this Court in **Poulose Athanasius v. Bassalios Catholicos** (1957 KLT 63), I am of the view that it will not be proper to interfere with the impugned order which has obviously been passed by the learned Sub Judge on considerations of justice. I am not prepared to say that the order is liable to be interfered with under Article 227 of the Constitution, more so, since I am told that the suit was amended subsequently so as to incorporate necessary pleadings to the effect that the suit is being instituted on behalf of all persons who are interested in the subject matter of the suit. Of course, Mr.Mathew John argued that it is only the amendment which can relate back and not the application for leave. But, even then interfering with Ext.P4 under the supervisory jurisdiction will not be justified. I refuse to interfere. The Writ Petition will stand dismissed.

(PIUS C.KURIAKOSE, JUDGE)

tgl